
HOUSE BILL 1793

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By Representatives Delvin, Conway, Scott, R. Fisher, Chopp, Kremen, Campbell, Mason, Costa, Valle, Dickerson, Patterson, Cody, Poulsen, Ogden and Ebersole

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1 AN ACT Relating to state patrol wage bargaining; amending RCW
2 41.56.020, 41.56.450, 41.56.465, and 41.56.475; amending 1993 c 398 s
3 5 (uncodified); reenacting and amending RCW 41.56.030 and 41.56.460;
4 adding new sections to chapter 41.56 RCW; providing an effective date;
5 and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 41.56.020 and 1994 c 297 s 1 are each amended to read
8 as follows:

9 This chapter shall apply to any county or municipal corporation, or
10 any political subdivision of the state of Washington, including
11 district courts and superior courts, except as otherwise provided by
12 RCW 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW.
13 (~~The Washington state patrol shall be considered a public employer of~~
14 ~~state patrol officers appointed under RCW 43.43.020.~~) The Washington
15 state bar association shall be considered a public employer of its
16 employees.

17 NEW SECTION. **Sec. 2.** This chapter shall apply to Washington state
18 patrol officers appointed under RCW 43.43.020.

1 **Sec. 3.** RCW 41.56.030 and 1993 c 398 s 1, 1993 c 397 s 1, and 1993
2 c 379 s 302 are each reenacted and amended to read as follows:

3 As used in this chapter:

4 (1) "Public employer" means any officer, board, commission,
5 council, or other person or body acting on behalf of any public body
6 governed by this chapter, or any subdivision of such public body. For
7 the purposes of this section, the public employer of district court or
8 superior court employees for wage-related matters is the respective
9 county legislative authority, or person or body acting on behalf of the
10 legislative authority, and the public employer for nonwage-related
11 matters is the judge or judge's designee of the respective district
12 court or superior court. The public employer of Washington state
13 patrol officers for wage-related matters is the governor or the
14 governor's designee, and the public employer for nonwage-related
15 matters is the state patrol.

16 (2) "Public employee" means any employee of a public employer
17 except any person (a) elected by popular vote, or (b) appointed to
18 office pursuant to statute, ordinance or resolution for a specified
19 term of office by the executive head or body of the public employer, or
20 (c) whose duties as deputy, administrative assistant or secretary
21 necessarily imply a confidential relationship to the executive head or
22 body of the applicable bargaining unit, or any person elected by
23 popular vote or appointed to office pursuant to statute, ordinance or
24 resolution for a specified term of office by the executive head or body
25 of the public employer, or (d) who is a personal assistant to a
26 district court judge, superior court judge, or court commissioner. For
27 the purpose of (d) of this subsection, no more than one assistant for
28 each judge or commissioner may be excluded from a bargaining unit.

29 (3) "Bargaining representative" means any lawful organization which
30 has as one of its primary purposes the representation of employees in
31 their employment relations with employers.

32 (4) "Collective bargaining" means the performance of the mutual
33 obligations of the public employer and the exclusive bargaining
34 representative to meet at reasonable times, to confer and negotiate in
35 good faith, and to execute a written agreement with respect to
36 grievance procedures and collective negotiations on personnel matters,
37 including wages, hours and working conditions, which may be peculiar to
38 an appropriate bargaining unit of such public employer, except that by
39 such obligation neither party shall be compelled to agree to a proposal

1 or be required to make a concession unless otherwise provided in this
2 chapter. ((In the case of the Washington state patrol, "collective
3 bargaining" shall not include wages and wage related matters.))

4 (5) "Commission" means the public employment relations commission.

5 (6) "Executive director" means the executive director of the
6 commission.

7 (7)(a) Until July 1, 1995, "uniformed personnel" means: (i) Law
8 enforcement officers as defined in RCW 41.26.030 of cities with a
9 population of fifteen thousand or more or law enforcement officers
10 employed by the governing body of any county with a population of
11 seventy thousand or more; (ii) fire fighters as that term is defined in
12 RCW 41.26.030; ((or--(e))) (iii) correctional employees who are
13 uniformed and nonuniformed, commissioned and noncommissioned security
14 personnel employed in a jail as defined in RCW 70.48.020(5), by a
15 county with a population of seventy thousand or more, and who are
16 trained for and charged with the responsibility of controlling and
17 maintaining custody of inmates in the jail and safeguarding inmates
18 from other inmates; (iv) security forces established under RCW
19 43.52.520; ((+(iv+)) (v) employees of a port district in a county with
20 a population of one million or more whose duties include crash fire
21 rescue or other fire fighting duties; ((+(v+)) (vi) employees of fire
22 departments of public employers who dispatch exclusively either fire or
23 emergency medical services, or both; or ((+(vi+)) (vii) employees in the
24 several classes of advanced life support technicians, as defined in RCW
25 18.71.200, who are employed by a public employer.

26 (b) Beginning on July 1, 1995, "uniformed personnel" means: (i)
27 Law enforcement officers as defined in RCW 41.26.030 employed by the
28 governing body of any city or town with a population of seven thousand
29 five hundred or more and law enforcement officers employed by the
30 governing body of any county with a population of thirty-five thousand
31 or more; (ii) correctional employees who are uniformed and
32 nonuniformed, commissioned and noncommissioned security personnel
33 employed in a jail as defined in RCW 70.48.020(5), by a county with a
34 population of seventy thousand or more, and who are trained for and
35 charged with the responsibility of controlling and maintaining custody
36 of inmates in the jail and safeguarding inmates from other inmates;
37 (iii) general authority Washington peace officers as defined in RCW
38 10.93.020 employed by a port district in a county with a population of
39 one million or more; ((+(iii+)) (iv) security forces established under

1 RCW 43.52.520; (~~(iv)~~) (v) fire fighters as that term is defined in
2 RCW 41.26.030; (~~(v)~~) (vi) employees of a port district in a county
3 with a population of one million or more whose duties include crash
4 fire rescue or other fire fighting duties; (~~(vi)~~) (vii) employees of
5 fire departments of public employers who dispatch exclusively either
6 fire or emergency medical services, or both; or (~~(vii)~~) (viii)
7 employees in the several classes of advanced life support technicians,
8 as defined in RCW 18.71.200, who are employed by a public employer.

9 (8) "Institution of higher education" means the University of
10 Washington, Washington State University, Central Washington University,
11 Eastern Washington University, Western Washington University, The
12 Evergreen State College, and the various state community colleges.

13 **Sec. 4.** RCW 41.56.450 and 1983 c 287 s 2 are each amended to read
14 as follows:

15 If an agreement has not been reached following a reasonable period
16 of negotiations and mediation, and the executive director, upon the
17 recommendation of the assigned mediator, finds that the parties remain
18 at impasse, then an interest arbitration panel shall be created to
19 resolve the dispute. The issues for determination by the arbitration
20 panel shall be limited to the issues certified by the executive
21 director. Within seven days following the issuance of the
22 determination of the executive director, each party shall name one
23 person to serve as its arbitrator on the arbitration panel. The two
24 members so appointed shall meet within seven days following the
25 appointment of the later appointed member to attempt to choose a third
26 member to act as the neutral chairman of the arbitration panel. Upon
27 the failure of the arbitrators to select a neutral chairman within
28 seven days, the two appointed members shall use one of the two
29 following options in the appointment of the third member, who shall act
30 as chairman of the panel: (1) By mutual consent, the two appointed
31 members may jointly request the commission, and the commission shall
32 appoint a third member within two days of such request. Costs of each
33 party's appointee shall be borne by each party respectively; other
34 costs of the arbitration proceedings shall be borne by the commission;
35 or (2) either party may apply to the commission, the federal mediation
36 and conciliation service, or the American Arbitration Association to
37 provide a list of five qualified arbitrators from which the neutral
38 chairman shall be chosen. Each party shall pay the fees and expenses

1 of its arbitrator, and the fees and expenses of the neutral chairman
2 shall be shared equally between the parties.

3 The arbitration panel so constituted shall promptly establish a
4 date, time, and place for a hearing and shall provide reasonable notice
5 thereof to the parties to the dispute. A hearing, which shall be
6 informal, shall be held, and each party shall have the opportunity to
7 present evidence and make argument. No member of the arbitration panel
8 may present the case for a party to the proceedings. The rules of
9 evidence prevailing in judicial proceedings may be considered, but are
10 not binding, and any oral testimony or documentary evidence or other
11 data deemed relevant by the chairman of the arbitration panel may be
12 received in evidence. A recording of the proceedings shall be taken.
13 The arbitration panel has the power to administer oaths, require the
14 attendance of witnesses, and require the production of such books,
15 papers, contracts, agreements, and documents as may be deemed by the
16 panel to be material to a just determination of the issues in dispute.
17 If any person refuses to obey a subpoena issued by the arbitration
18 panel, or refuses to be sworn or to make an affirmation to testify, or
19 any witness, party, or attorney for a party is guilty of any contempt
20 while in attendance at any hearing held hereunder, the arbitration
21 panel may invoke the jurisdiction of the superior court in the county
22 where the labor dispute exists, and the court has jurisdiction to issue
23 an appropriate order. Any failure to obey the order may be punished by
24 the court as a contempt thereof. The hearing conducted by the
25 arbitration panel shall be concluded within twenty-five days following
26 the selection or designation of the neutral chairman of the arbitration
27 panel, unless the parties agree to a longer period.

28 The neutral chairman shall consult with the other members of the
29 arbitration panel, and, within thirty days following the conclusion of
30 the hearing, the neutral chairman shall make written findings of fact
31 and a written determination of the issues in dispute, based on the
32 evidence presented. A copy thereof shall be served on the commission,
33 on each of the other members of the arbitration panel, and on each of
34 the parties to the dispute. Except as provided in sections 7 and 8 of
35 this act, that determination shall be final and binding upon both
36 parties, subject to review by the superior court upon the application
37 of either party solely upon the question of whether the decision of the
38 panel was arbitrary or capricious.

1 **Sec. 5.** RCW 41.56.460 and 1993 c 517 s 10, 1993 c 502 s 5, 1993 c
2 398 s 2, and 1993 c 397 s 2 are each reenacted and amended to read as
3 follows:

4 (1) In making its determination, the panel shall be mindful of the
5 legislative purpose enumerated in RCW 41.56.430 and as additional
6 standards or guidelines to aid it in reaching a decision, it shall take
7 into consideration the following factors:

8 (a) The constitutional and statutory authority of the employer;

9 (b) Stipulations of the parties;

10 (c)(i) For employees listed in RCW 41.56.030(7)(a)(i) (~~and (e)~~),
11 (iii), and (iv), comparison of the wages, hours and conditions of
12 employment of personnel involved in the proceedings with the wages,
13 hours, and conditions of employment of like personnel of like employers
14 of similar size on the west coast of the United States;

15 (ii) For employees listed in RCW 41.56.030(7)(a)(ii) and (~~(iv)~~) (v)
16 through (~~(vi)~~) (vii), comparison of the wages, hours, and conditions of
17 employment of personnel involved in the proceedings with the wages,
18 hours, and conditions of employment of like personnel of public fire
19 departments of similar size on the west coast of the United States.
20 However, when an adequate number of comparable employers exists within
21 the state of Washington, other west coast employers shall not be
22 considered;

23 (d) The average consumer prices for goods and services, commonly
24 known as the cost of living;

25 (e) Changes in any of the foregoing circumstances during the
26 pendency of the proceedings; and

27 (f) Such other factors, not confined to the foregoing, which are
28 normally or traditionally taken into consideration in the determination
29 of wages, hours and conditions of employment.

30 (2) (~~Nothing in~~) Subsection (1)(c) of this section (~~shall~~) may
31 not be construed to authorize the panel to require the employer to pay,
32 directly or indirectly, the increased employee contributions resulting
33 from chapter 502, Laws of 1993 or chapter 517, Laws of 1993, as
34 required under chapter 41.26 RCW.

35 **Sec. 6.** RCW 41.56.465 and 1993 c 398 s 3 are each amended to read
36 as follows:

37 (1) In making its determination, the panel shall be mindful of the
38 legislative purpose enumerated in RCW 41.56.430 and, as additional

1 standards or guidelines to aid it in reaching a decision, it shall take
2 into consideration the following factors:

3 ~~((1))~~ (a) The constitutional and statutory authority of the
4 employer;

5 ~~((2))~~ (b) Stipulations of the parties;

6 ~~((3)(a))~~ (c)(i) For employees listed in RCW 41.56.030(7)(b)(i)
7 through ~~((iii))~~ (iv), comparison of the wages, hours, and conditions
8 of employment of personnel involved in the proceedings with the wages,
9 hours, and conditions of employment of like personnel of like employers
10 of similar size on the west coast of the United States;

11 ~~((b))~~ (ii) For employees listed in RCW 41.56.030(7)(b)~~((iv))~~ (v)
12 through ~~((vii))~~ (viii), comparison of the wages, hours, and
13 conditions of employment of personnel involved in the proceedings with
14 the wages, hours, and conditions of employment of like personnel of
15 public fire departments of similar size on the west coast of the United
16 States. However, when an adequate number of comparable employers
17 exists within the state of Washington, other west coast employers may
18 not be considered;

19 ~~((4))~~ (d) The average consumer prices for goods and services,
20 commonly known as the cost of living;

21 ~~((5))~~ (e) Changes in any of the circumstances under ~~((subsections~~
22 ~~(1))~~ (a) through ~~((4))~~ (d) of this ~~((section))~~ subsection during the
23 pendency of the proceedings; and

24 ~~((6))~~ (f) Such other factors, not confined to the factors under
25 ~~((subsections—(1))~~ (a) through ~~((5))~~ (e) of this ~~((section))~~
26 subsection, that are normally or traditionally taken into consideration
27 in the determination of wages, hours, and conditions of employment.
28 For those employees listed in RCW 41.56.030(7)(b)(i) who are employed
29 by the governing body of a city or town with a population of less than
30 fifteen thousand, or a county with a population of less than seventy
31 thousand, consideration must also be given to regional differences in
32 the cost of living.

33 (2) Subsection (1)(c) of this section may not be construed to
34 authorize the panel to require the employer to pay, directly or
35 indirectly, the increased employee contributions resulting from chapter
36 502, Laws of 1993 or chapter 517, Laws of 1993 as required under
37 chapter 41.26 RCW.

1 NEW SECTION. **Sec. 7.** A collective bargaining agreement negotiated
2 or determined between Washington state patrol officers and their
3 employers prior to approval by the legislature of the funds necessary
4 to implement the agreement must be conditioned upon subsequent approval
5 by the legislature of the funds.

6 NEW SECTION. **Sec. 8.** When an agreement is reached or arbitration
7 determination is made between Washington state patrol officers and
8 their employers, the governor's office shall submit to the legislature
9 a request for funds necessary to implement the wage-related provisions
10 of the agreement or determination within ten days of the date of the
11 agreement or determination or, if the legislature is not in session,
12 within ten days after the legislature next convenes. If the
13 legislature approves funding of an amount other than that requested by
14 the governor in his or her submission, the parties shall, within ten
15 days, commence negotiation of a substitute contract. The negotiation
16 must be under RCW 41.56.440 through 41.56.452 and 41.56.470 through
17 41.56.490. If, under these procedures, the matter is submitted for
18 arbitration, the determination of the arbitration panel is final and
19 binding on both parties, subject to review by the superior court upon
20 the application of either party solely upon the question of whether the
21 decision of the panel was arbitrary or capricious. The substitute
22 contract may not contain wage-related terms inconsistent with the
23 funding amount approved by the legislature.

24 **Sec. 9.** RCW 41.56.475 and 1993 c 351 s 1 are each amended to read
25 as follows:

26 In addition to the classes of employees listed in RCW 41.56.030(7),
27 the provisions of RCW 41.56.430 through 41.56.452 and 41.56.470,
28 41.56.480, and 41.56.490 also apply to Washington state patrol officers
29 appointed under RCW 43.43.020 as provided in this section, subject to
30 the following:

31 (~~(1) The mediator shall not consider wages and wage-related~~
32 ~~matters.~~

33 (2)) In making its determination, the arbitration panel shall be
34 mindful of the legislative purpose enumerated in RCW 41.56.430 and, as
35 additional standards or guidelines to aid it in reaching a decision,
36 shall take into consideration the following factors:

1 (~~(a)~~) (1) The constitutional and statutory authority of the
2 employer;

3 (~~(b)~~) (2) Stipulations of the parties;

4 (~~(c)~~) (3) Comparison of the wages, hours, and conditions of
5 employment of personnel involved in the proceedings with the hours and
6 conditions of employment of like personnel of like employers of similar
7 size on the west coast of the United States;

8 (~~(d)~~) (4) The average consumer price for goods and services,
9 commonly known as the cost of living;

10 (5) Changes in any of the foregoing circumstances during the
11 pendency of the proceedings; and

12 (~~(e)~~) (6) Such other factors, not confined to the foregoing,
13 which are normally or traditionally taken into consideration in the
14 determination of hours and conditions of employment.

15 **Sec. 10.** 1993 c 398 s 5 (uncodified) is amended to read as
16 follows:

17 RCW 41.56.460 and (~~1988 c 110 s 1, 1987 c 521 s 2, 1983 c 287 s 4,~~
18 ~~1979 ex.s. c 184 s 3, & 1973 c 131 s 5~~) 1995 c --- s 5 (section 5 of
19 this act) are each repealed.

20 NEW SECTION. **Sec. 11.** Sections 2, 7, and 8 of this act shall each
21 be added to chapter 41.56 RCW.

22 NEW SECTION. **Sec. 12.** Sections 6 and 10 of this act are necessary
23 for the immediate preservation of the public peace, health, or safety,
24 or support of the state government and its existing public
25 institutions, and shall take effect July 1, 1995.

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